

**REMARKS**

Claims 2-25 were presented for examination and claims 2-3, 5-8, 10-15, 17-20 and 22-25 were rejected. Claims 4, 9, 16 and 21 were objected to by the examiner as being dependent on a rejected base claim. In the Office Action Summary, the Examiner objects to claims 4, 9, 16 and 21. However, in Section 4, page 10 of the Office Action, the Examiner objects to claims 4, 10, 16 and 21 as being dependent upon a rejected base claim but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Since the Examiner provides a rejection to claim 10 on page 8 of the Office Action, Applicants believe the Examiner intended to object to claims 4, 9, 16 and 21 in Section 7, page 10 as indicated in the Office Action Summary. For purpose of this response, Applicants treat claim 9 as the objected to claim instead of claim 10. In the present amendment, claims 26-28 have been added. No new matter has been introduced. Upon entry of the present amendment, claims 2-28 will be currently pending in this application, of which claims 2, 14 and 26 are independent. Applicants submit that claims 2-28 are in condition for allowance.

The following comments address all stated grounds of rejection. Applicants respectfully traverse all rejections and urge the Examiner to pass the claims to allowance in view of the remarks set forth below.

**CLAIM REJECTIONS UNDER 35 U.S.C. §112****I. Claim 13 Rejected Under 35 U.S.C. §112**

Claim 13 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 13 was previously dependent on claim 1, which was canceled. Claim 13 is

hereby amended to be dependent on independent claim 2, mooted this rejection with respect to this claim. Thus, Applicants request the Examiner to withdraw the rejection of claim 13 under 35 U.S.C. §112, second paragraph.

### **CLAIM REJECTIONS UNDER 35 U.S.C. §103**

#### **II. Claims 2- 25 Rejected Under 35 U.S.C. §103**

Claim 2-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neale et al. (US Patent Application Publication No. 2003/0131079 A1) (“Neale”) in view of Dempo (US Patent No. 6,934,288) (“Dempo”) and in view of Donzis et al. (US Patent No. 6,973,097 B1) (“Donzis”). Claims 3-13 depend on and incorporate all the patentable subject matter of independent claim 2, and claims 15-25 depend on and incorporate all the patentable subject matter of independent claim 14. Applicants respectfully traverse this rejection and submit that Neale, Dempo and Donzis, alone or in combination fail to teach or suggest each and every element of the claimed invention.

#### **A. Independent Claims 2 and 14 Patentable over Neale, Dempo and Donzis**

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Claims 2 and 14 are directed to a method and system, respectively, for performing by proxies, discovery of a maximum transmission unit of a path between a client and a server in a more efficient manner. These claims recite a second proxy detecting a packet received from transmission of repacketized packets is fragmented, and transmitting an acknowledgment packet marked with an indicator that fragmentation has occurred to the first proxy. Applicants submit that Neale, Dempo and Donzis, alone or in combination, fail to teach or suggest each and every element of independent claims 2 and 14.

In the Office Action, the Examiner admits that both Neale and Dempo fail to teach or suggest the second proxy detecting a packet received from transmission of repacketized packets is fragmented, and transmitting an acknowledgement packet marked with an indicator that fragmentation has occurred to the first proxy. The Examiner cites Donzis for this purpose. Applicants respectfully disagree that Donzis bridges the factual deficiencies of the Neale and Dempo references. Instead, in Donzis, a router between a client and a server modifies the maximum message size indicator to a value derived from the known PMTU and transmits the value to the server (Donzis col. 4, lines 44-49 and col. 6, lines 46-53). Thus, the server knows of the PMTU and responds with packets of appropriate size (Donzis, col. 4, lines 44-54). Repacketization and fragmentation, therefore, does not occur in the system described by Donzis. Thus, Donzis does not detect fragmentation of repacketized packets.

Because Neale, Dempo and Donzis each fail to disclose the repacketization and detection of fragmentation features of independent claims 2 and 14, Applicants respectfully submit that their combinations fail to teach or suggest these features as well. Thus, Applications submit claims 2 and 14 are patentable and in condition for allowance. Claims 3-13 depend on and incorporate all the patentable subject matter of independent claim 2, and claims 15-25 depend on and incorporate all the patentable subject matter of independent claim 14. Thus, Neale, Dempo and Donzis, alone or in combination, fail to detract from the patentability of these dependent claims. Accordingly, Applicants submit that claims 3-13 and 15-25 are also patentable and in condition for allowance. Therefore, Applicants request the Examiner to withdraw the rejection of claims 2-25 under 35 U.S.C. §103.

**PATENTABILITY OF NEW CLAIMS 26-28****A. New Independent Claim 26 Patentable Over Neale, Dempo and Donzis**

New independent claim 26 is directed towards a method for performing by proxies, discovery of a maximum transmission unit of a path between a client and a server in a more efficient manner. The independent claim 26 incorporates the subject matter of independent claim 2 with portions of the subject matter identified by the Examiner in dependent claim 4 as allowable. Applicants submit that independent claim 26 is patentable and in condition for allowance. Claims 27-28 depend on and incorporate all the patentable subject matter of new independent claim 26. Thus, Applicants submit that claims 27-28 are also patentable and in condition for allowance.

**CONCLUSION**

In light of the aforementioned amendments and arguments, Applicants contend that each of the Examiners rejections has been adequately addressed and all of the pending claims are in condition for allowance. Accordingly, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection, and allowance of all of the pending claims.

Should the Examiner feel that a telephone conference with Applicants' attorney would expedite prosecution of this application, the Examiner is urged to contact the Applicants' attorney at the telephone number identified below.

Respectfully submitted,

CHOATE, HALL & STEWART, LLP

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/Christopher J. McKenna/  
Christopher J. McKenna  
Registration No. 53,302  
Attorney for Applicants

Choate, Hall & Stewart, LLP  
Two International Place  
Boston, MA 02110  
(617) 248-5000 (phone)  
(617) 248-4000 (fax)